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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,376	03/20/2001	Andrew P. Meurer	8480	1283

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EXAMINER

FERNSTROM, KURT

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/812,376	ANDREW P. MEURER	
	Examiner	Art Unit	
	Kurt Fernstrom	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with numerous instances of claim language whose meaning is uncertain, in terms of how the structure of the invention is defined. Examples of such language include "interior designs reflecting characteristics" (claim 1), "fulfilling the needs of the particular type of consumer" (claim 1), "multipurpose customer interaction center" (claims 1, 11 and 17), "interior designs reflecting characteristics of a particular type of consumer" (claim 1), "area where customers can socialize" (claims 2, 13 and 18), "activity area for children" (claim 2), "public speaking accommodations" (claims 2 and 18), "educational materials" (claims 3, 5 and 19), "scheduling features" (claims 3 and 19), "informative marketing materials" (claims 4 and 18), "topics of interest" (claim 4), "seasonal and promotional products" (claim 5), "attuned with the particular type of consumer's diet" (claim 6), and "interior designs suitable for" (claim 11).

Also claim 10 contains several examples of language which lacks antecedent basis, including "the nutrition center", "the equipment center" and "the personal hygiene center".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes & Noble in view of Perkowski. Official Notice is taken that it is well known to provide a partitioned section within a store which contains a variety of products. As an example, Barnes & Noble bookstores contain partitioned sections for audio products, and children's books and games. As discussed above, it is not clear how the phrase "reflecting characteristics of a particular type of consumer" limits the invention structurally. In any event, the children's section of Barnes & Noble contains decorations and designs to indicate a children's section, and the audio section contains signs and other indicia indicating that music and other audio merchandise are available within the section. Barnes & Noble fails to disclose a customer interaction center. However, such centers are known in retail establishments. Perkowski discloses in the Figures and in the specification one example of a multipurpose customer interaction center, comprising a computer terminal which provides Internet access. It would have been obvious to one of ordinary skill in the relevant art to modify the system of Barnes & Noble by providing computer terminals for the purpose of allowing a customer to access additional information. With respect to the other limitations of claims 2, 13 and 18, the other elements, including an area for socialization, an activity area and public speaking

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accommodations, are extremely broad. Any area is capable of being used by people for socializing, speaking or "activity". Also, with respect to claims 3, 14 and 19, the claim language pertaining to online shopping, educational materials etc. is functional language which describes the intended purpose of the device. The only structural limitation of claims 3, 14 and 19 is Internet access, which is disclosed by Perkowski. The signs in Barnes & Noble amount to marketing and educational materials, thus reading on the limitations of claim 4. The Barnes and Noble sections also contain seasonal items such as Christmas albums and books, thus reading on claim 5. With respect to claims 6-9, 11, 15, 17 and 20 the particular types of consumer goods claimed are obvious variations on the known sections of Barnes & Noble. Particularly in the case of claim 11, retail children's stores containing different sections for different types of consumer goods are known, Buy Buy Baby being one example. With respect to claim 10, Barnes & Noble stores have different floor patterns for different sections. With respect to claim 12, Official Notice is taken that it is known to provide lavatories and water fountains sized for small children in areas frequented by such children.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes & Noble in view of Perkowski, and further in view of Fulle. Barnes & Noble as viewed in combination with Perkowski discloses all of the limitations of the claim with the exception of merchandising fixtures on casters. However, such fixtures are well known in retail establishments. Fulle discloses in the Figures and in the specification one example of a merchandising fixture having casters thereon. It would have been obvious to one of ordinary skill in the relevant art to modify the system of Barnes & Noble by

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providing merchandising fixtures on casters for the purpose of allowing a user to easily move the fixtures to a desired layout.

Response to Arguments

Applicant's arguments filed on November 23, 2004 have been fully considered but they are not persuasive. With respect to the rejections under 35 USC 112, it is understood and appreciated that the claim language is to be interpreted in light of what one of ordinary skill in the art would understand the invention to be, and is not to be examined in a vacuum. However, the excerpts from the specification cited by applicant do not adequately define or describe the structural limitations of the rejected claim language such that one of ordinary skill in the relevant art would be apprised of the scope of the invention. The arguments concerning "multipurpose customer interaction center" are not persuasive, as the phrase denotes an intended use of an area, rather than any particular structure. The excerpt from the specification cited by applicant also describes this feature in terms of its intended use, rather than reciting a structure. "Information" and "services" are extremely broad, particularly given that these terms, meant to define a "multipurpose customer interaction center", are not even present in the claims, but rather in the specification. With respect to this and other rejected terminology, it is acknowledged that one of ordinary skill in the relevant art would have some understanding of what types of structural features the terms might entail. However, 35 USC 112 requires that an applicant present claims which particularly point out and distinctly claim the subject matter of the invention so that one of ordinary skill

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would understand not merely what the general thrust of the invention is, but what specifically is included and excluded by the claim language. Because the claim language does not adequately define the invention, the rejections under 35 USC 112 are maintained.

The arguments concerning the rejections under 35 USC 103 are also unpersuasive. Barnes and Noble is not a partitioned section within a larger retail establishment; rather, Barnes and Noble itself is the retail establishment, with partitioned sections for selling music products, children's books and products and so forth. The advantages of this arrangement are that a user can go to a specific place within the establishment to buy a particular type of product, and thus are not restricted to bookstores in particular. One of ordinary skill in the art would have found it obvious to employ such an arrangement for other types of retail establishments, including those geared towards children and women.

With respect to Perkowski, the reference discloses in Figures 3A1 and 3A2 and in column 4, lines 55-64, column 9, lines 5-13 and column 17, line 36 to column 18, line 12 a computer kiosk for providing various information to a consumer, where the kiosk may be located within a retail establishment. The kiosk is a multipurpose customer interaction center. Perkowski discusses the advantages of providing such a device with a retail establishment; thus one of ordinary skill in the art would have found it obvious to combine the teachings of Barnes and Noble with those of Perkowski. For similar reasons, the combination of the teachings of Fulle with those of Barnes and Noble and Perkowski is also proper. Fulle discusses at column 2, lines 21-25 that the casters on

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its display system enable a user to easily move the assembled display to a desired location within a retail establishment. Thus, one of ordinary skill would have found it obvious to provide merchandising fixtures on casters to enable a user to easily move the assembled display to a desired location within any retail establishment, including Barnes and Noble.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (703) 305-0303. The examiner can normally be reached on M-F 9:30-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KF
August 19, 2004


KURT FERNSTROM
PRIMARY EXAMINER